

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

BRENDAN DASSEY,

Petitioner,

v.

Case No. 14-CV-1310

BRIAN FOSTER, Warden,
Green Bay Correctional Institution,

Respondent.

MOTION FOR EXTENSION OF TIME TO FILE ANSWER AND BRIEF

Brian Foster, Warden, Green Bay Correctional Institution, moves this Court for a three-week extension of time in which to file an answer to Petitioner Brendan Dassey's petition for writ of habeas corpus, and a brief on the merits. Foster requests a due date of May 4, 2015. The reasons for this motion follow.

1. Pursuant to a November 12, 2014 Rule 4 Order, this court directed Foster to respond to petition and file a brief in support of the response by January 12, 2014. Dkt. 6.

2. Assistant Attorney General Warren Weinstein, who represented the State of Wisconsin in the state appellate courts, was initially assigned responsibility for representing Foster in this case. On January 5, 2015,

shortly after AAG Weinstein learned he would need to take an extended medical leave to undergo by-pass surgery, the Department of Justice transferred responsibility for this case to undersigned counsel, Assistant Attorney General Jacob Wittwer. On January 7, 2015, this court granted an extension motion filed with undersigned counsel's notice of appearance, which ordered Foster to file an answer and brief by March 13, 2015. Dkt. 13.

3. On March 6, 2015, counsel filed a motion requesting a 30-day extension of time to file Foster's answer and brief. Dkt. 15. This court granted counsel's motion, and set a new briefing deadline of April 13, 2015. Dkt. 16.

4. Since early March, counsel has worked on the following assignments in the Wisconsin Supreme Court, Wisconsin Court of Appeals, and the United States District Court for the Eastern District of Wisconsin:

a. *Brian A. Maus v. Brian Foster*, No. 14-C-1393, answer in response to petitioner's writ of habeas corpus filed in the Eastern District Court on March 9, 2015.

b. *State v. Demetrice Keith*, No. 2014AP2264, responsive brief filed in the Wisconsin Court of Appeals on March 19, 2015.

c. *State v. Anthony Christopher Moore*, No. 2014AP2094-CR, responsive brief filed in the Wisconsin Court of Appeals on April 2, 2015.

d. *State v. Vincent E. Boyd*, No. 2014AP837-CR, response to petition for review substantially completed to be filed in the Wisconsin Supreme Court by April 10, 2015.

e. *State v. Charles Ray Stewart*, No. 2014AP276-CR, responsive brief partially completed and due in the Wisconsin Court of Appeals by April 24, 2015, on third extension.

5. Counsel also prepared a proscriptive memorandum to Department administrators in mid-March regarding whether to seek supreme court review of an adverse decision issued earlier this month by the Wisconsin Court of Appeals in *State v. Daniel Fierro*, No. 2014AP1270-CR, unpublished slip op. (Wis. Ct. App. Mar. 5, 2015).

6. Counsel has also done substantial work on the answer and brief, including many hours reviewing the trial transcript (approximately 1,670 pages), postconviction hearing transcript (approximately 1,300 pages), the state appellate court filings, and researching the two claims for relief presented in Dassey's petition. However, because of his work on the above-

listed cases, counsel has been unable to complete the answer and supporting brief in this case in the allotted time.

7. Dassey's attorneys of record, Laura H. Nirider and Robert J. Dvorak, have informed counsel by email that they do not object this extension request.

For these reasons, undersigned counsel respectfully submits that a three week extension to May 4, 2015, is reasonably necessary. Therefore, counsel asks that deadline for Foster to file an answer and brief be extended from April 13, 2015, to May 4, 2015.

Dated at Madison, Wisconsin, this 8th day of April, 2015.

Respectfully submitted,

BRAD D. SCHIMEL
Attorney General

s/ Jacob J. Wittwer

JACOB J. WITTWER
Assistant Attorney General
State Bar #1041288

Attorneys for Respondent

Wisconsin Department of Justice
Post Office Box 7857
Madison, Wisconsin 53707-7857
(608) 266-1606
(608) 266-9594 (Fax)
wittwerjj@doj.state.wi.us